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6-17-16  
04:59 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Application of California-American Water  
Company (U-210W) for Authorization to Modify  
Conservation and Rationing Rules, Rate Design,  
and Other Related Issues for the Monterey  
District

Application No. 15-07-019  
(Filed, July 14, 2015)

**MOTION FOR ADOPTION OF SETTLEMENT AGREEMENT BETWEEN  
CALIFORNIA-AMERICAN WATER COMPANY AND MONTEREY PENINSULA  
WATER MANAGEMENT DISTRICT ON THE ANNUAL CONSUMPTION TRUE-UP  
PILOT PROGRAM AND ON THE MODIFICATION TO MONTEREY DISTRICT  
RULE 14.1.1 AND TARIFF SCHEDULE MO-14.1.1 AND MOTION TO SHORTEN  
COMMENT PERIOD**

**ATTACHED – SETTLEMENT AGREEMENT**

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Dated: June 17, 2016

## **TABLE OF CONTENTS**

I.	INTRODUCTION .....	1
II.	PROCEDURAL BACKGROUND.....	2
III.	DISCUSSION .....	3
A.	Settlement on Rule and Schedule 14.1.1 .....	4
1.	Overview of the Settlement .....	4
2.	Summary of Changes .....	4
B.	Settlement on Annual Consumption True-Up Pilot Program .....	5
IV.	THE SETTLEMENT IS REASONABLE IN LIGHT OF THE ENTIRE RECORD, CONSISTENT WITH THE LAW, AND IN THE PUBLIC INTEREST .....	6
V.	CONCLUSION .....	7

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**I. INTRODUCTION**

Pursuant to Rule 12.1 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure, California-American Water Company (“California American Water”) and the Monterey Peninsula Water Management District (“MPWMD”) (collectively “the Parties”) have agreed on resolution of issues set forth in the *Settlement Agreement between California-American Water Company and the Monterey Peninsula Water Management District on the Annual Consumption True-Up Pilot Program and on the Modification to Monterey District Rule 14.1.1 and Tariff Schedule MO-14.1.1*, attached as Exhibit 1 (referred to hereafter as the “Settlement”).<sup>1</sup> Accordingly, the Parties submit the attached Settlement in this proceeding for Commission approval and adoption. Pursuant to Rule 12.1(a) and an extension granted by email ruling on June 15, 2016, this Motion to adopt the Settlement is timely.<sup>2</sup>

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<sup>1</sup> California American Water files this Motion on behalf of MPWMD and provides electronic signatures in accordance with Rule 1.8 of the Commission’s Rules of Practice and Procedure.

<sup>2</sup> By e-mail ruling, the assigned Administrative Law Judge granted the Parties’ June 14, 2016 request for a two-day extension and extended the deadline for submittal to the Commission of Phase 2 settlement agreements from June 15, 2016 (i.e., 30 days following the last day of Phase 2 evidentiary hearing pursuant to Rule 12.1(a) of the Commission’s Rules of Practice and Procedure) until June 17, 2016.

The Settlement enjoys the sponsorship of the Parties. The Parties are fairly representative of affected interests. The Parties include California American Water, who represents the interest of the utility, and MPWMD, who represents the local water management in Monterey. This Settlement resolves some of the issues of this proceeding, but does not address California American Water's requests on rate design and/or all of the issues related to Water Revenue Adjustment Mechanism ("WRAM")/Modified Cost Balancing Account ("MCBA") recovery. As set forth below, the Settlement fulfills the criteria that the Commission requires for approval of such a settlement. The Commission should grant this Motion to adopt the Settlement.

Additionally, pursuant to Rule 12.2, the Parties request that the Administrative Law Judge ("ALJ") shorten the comment period on the Settlement to fifteen days for opening comments and five days for reply comments.

## **II. PROCEDURAL BACKGROUND**

This proceeding arises from California American Water's Application to modify California American Water's water shortage contingency plan, Monterey District Rule 14.1.1 ("Rule 14.1.1") and Tariff Schedule No. MO-14.1.1 ("Schedule 14.1.1"), change the rate design for customers in the Monterey District, and address issues related to the WRAM/MCBA that need to be resolved to ensure revenue stability and avoid harmful impacts on customers.

This proceeding was bifurcated into two phases, with the first phase addressing consideration of an expedited rate design change to eliminate summer outdoor watering allotments in the upper rate tiers, and the second phase addressing all remaining issues.<sup>3</sup> The Settlement is limited to some Phase 2 issues in this proceeding, including the proposed modification to California American Water's Rule and Schedule 14.1.1<sup>4</sup> and the proposed pilot program in Monterey to true-up the consumption level for customers on an annual basis.

The Parties hereby submit to the Commission this Settlement in which the Parties propose the adoption of California American Water's modified water shortage contingency plan, Rule and Schedule 14.1.1 for the Monterey District, and the approval of the Monterey pilot

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<sup>3</sup> See *Assigned Commissioner's Scoping Memo and Ruling*, dated November 4, 2015, p.8.

<sup>4</sup> The Water Shortage Contingency Plan, Rule and Tariff Schedule 14.1.1, applies to customers of California American Water's Monterey District's Main System, which includes Ryan Ranch, Bishop and Hidden Hills who are supplied water from the Carmel River System and Seaside Basin.

program to true-up the consumption level for customers on an annual basis (referred to as the “Annual Consumption True-Up Pilot Program” or the “CAM”).<sup>5</sup>

### **III. DISCUSSION**

California American Water is seeking to modify Rule and Schedule 14.1.1 to ensure that the appropriate tools are available so it can comply with the current and future modified conditions of the State Water Resources Control Board’s (“SWRCB”) 2009 Cease and Desist Order (“CDO”). The CDO currently requires California American Water to reduce unauthorized diversions from the Carmel River by 69% and end all unauthorized diversions completely by December 31, 2016 (known as the “physical cliff”). California American Water’s replacement water project, the Monterey Peninsula Water Supply Project (“MPWSP”), has been delayed and is not expected to be completely online until sometime in 2020. Mindful of the potentially devastating effects of the “physical cliff” on the Monterey community, California American Water, along with community stakeholders, have proposed modifications to the CDO. These modifications would extend the “physical cliff” deadline but would require California American Water to meet certain milestones or face significant reductions in water production. While California American Water does not intend to miss any of the milestones, it still must be prepared to deal with the consequences of a significantly reduced water supply. Modifying the conservation and rationing plan will demonstrate to the SWRCB that California American Water will be able to comply with existing and future reductions. In the Settlement, the Parties propose the adoption of a modified Rule and Schedule 14.1.1, which can be implemented via advice letter immediately upon approval of the Commission.

As part of its efforts to enhance revenue stability and avoid future large undercollections, California American Water proposed a pilot program in Monterey to true-up the consumption level for customers on an annual basis. The proposed CAM is the linchpin of California American Water’s plan to stabilize revenues and prevent future substantial undercollections. Given the pressures of the CDO and the existing water production limitations, consumption will

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<sup>5</sup> The Settlement provides the implementation details for the CAM covering residential and non-residential customers in the Monterey District subject to WRAM/MCBA true-ups for the Monterey Main system, which includes Ryan Ranch, Bishop and Hidden Hills, but excludes the satellite systems of Toro, Ambler Park, Ralph Lane, Garrapata and Chualar.

likely continue to decline. Without the CAM, California American Water and its customers will likely be facing ballooning WRAM balances again in short order. In the Settlement, the Parties seek authorization to adopt the Annual Consumption True-Up Pilot Program for all metered customer classes subject to a WRAM/MCBA, which is necessary to try to prevent large revenue undercollections in the future and to provide predictability in the timely recovery of revenue, to the benefit of the MPWSP.

## **A. Settlement on Rule and Schedule 14.1.1**

### **1. Overview of the Settlement**

The Parties have agreed to a settlement modifying Rule and Schedule 14.1.1 to have fewer stages, be easier to implement timely and at a requested stage, reduce the dependency on increased rates, allow California American Water to take action against customers for continued non-compliance with water use restrictions and rule violations, allow for rationing levels to be determined and noticed at the time of need, not have them preset, be better coordinated with the Urban Water Shortage Contingency Plan, and limit the plan to one stage, with two levels, of physical water rationing. The proposed modifications to Rule 14.1.1 and Schedule 14.1.1 are also consistent with MPWMD's Regulation XV, as amended on February 17, 2016, by Ordinance 169. The Parties recommend the adoption of the modified Rule and Schedule 14.1.1, attached as Appendices E-F to the Settlement.

### **2. Summary of Changes**

General descriptions of the some of the key changes between the existing Rule and Schedule 14.1.1 and the modified Rule and Schedule 14.1.1 are as follows.

#### Stages 1-4

**Proposed Change:** The Parties revised Rule 14.1.1 to reduce the current seven stages to four. The first stage prohibits water waste and would be effective upon filing a Tier 1 advice letter. The second stage results in voluntary conservation when a small or limited shortfall in physical storage or water production occurs, and would also be accompanied by increased water waste enforcement. The third stage uses two levels of rates to induce conservation based on consumers' own choices. The fourth and final stage results in rationing, with specific rations

assigned to residential customers and conditions for rations for non-residential customers as necessary.

**Rationale:** Fewer stages improve Rule 14.1.1, make it easier to implement, and make it easier for customers to understand.

#### Conservation and Rationing Triggers

**Proposed Change:** Revised Rule 14.1.1 provides triggers for entering each Stage based on physical or regulatory shortfalls that allow California American Water to act proactively to address potential issues.

**Rationale:** The Parties agree that time is of the essence in avoiding limits. The current trigger mechanisms, however, are based on actual production in any month compared against a budget that is developed based on available supply. These current triggers are therefore reactionary and make it difficult to address problems quickly. The revised triggers make it easier to timely implement each new stage.

#### Conservation Rates

**Proposed Change:** Revised Rule 14.1.1 includes provisions for conservation rates, which are implemented in two levels. Specifically, it is proposed that in Stage 3 conservation rates are implemented via two distinct levels, Level 1 - 25% and Level 2- 40%. These conservation rates increase the cost of water dramatically at the upper tiers (2-5).

**Rationale:** Implementation of conservation rates in Stage 3 will induce conservation based on consumers' own choices. The two part approach allows customers time to adjust usage and avoid excessively high water bills immediately after implementation of conservation rates.

### **B. Settlement on Annual Consumption True-Up Pilot Program**

The Parties have also agreed to a settlement on the proposed Annual Consumption True-Up Pilot Program. Parties agree that the pilot program would adjust rates on a prospective basis through the following proposed process:

1. California American Water would file a Tier 2 advice letter annually on or before November 15 in conjunction with step rate filings, where applicable. In the advice letter,

California American Water would provide the actual recorded consumption for the Monterey District by customer class from October 1 of the prior year through September 30 of the current year. It would also provide the subsequent year regulatory production limits. The lower of the two provided amount would be used to set the authorized consumption in the subsequent year.

2. With approval of the Tier 2 advice letter by the Commission's Division of Water and Audits, a Tier 1 advice letter would be filed to implement new rates on January 1 of the subsequent year.

3. The lower of the actual twelve month recorded consumption ending as of September 30 or the regulatory production limits would then replace the adopted quantities beginning January 1 of the subsequent year and would be used for all future rate adjustments, including all annual step and offset filings, in that calendar year until the adopted quantities are updated the following year.

The Parties agree that utilizing a more current consumption forecast would stabilize revenues and prevent future substantial undercollections, which will support the successful financing of the MPWSP, allow customers to better budget their annual water costs, provide the right pricing signals so that all conservation and use restriction signals are timely and consistently provided to customers, address inter-generational equity concerns in the timely recovery of costs in rates, and lower rates to customers by shortening the period that accounts accrue interest. The Parties also agree that it is reasonable to use the latest annual consumption numbers at all times in Monterey because the usage and usage by tier is unpredictable due to aggressive conservation activities and tiered pricing.

#### **IV. THE SETTLEMENT IS REASONABLE IN LIGHT OF THE ENTIRE RECORD, CONSISTENT WITH THE LAW, AND IN THE PUBLIC INTEREST**

Rule 12.1 requires that a settlement be "reasonable in light of the whole record, consistent with law, and in the public interest." The Settlement meets these requirements.

First, the Settlement is reasonable in that it takes into account the principles of water conservation and the underlying circumstances unique to the Monterey Peninsula, including the production limits imposed by the CDO. The Parties began with an agreement on the need to make changes to Rule and Schedule 14.1.1 to meet the expectation of the State mandated



drought response and the pending “physical cliff” of the CDO, and the need to address the timely recovery of the WRAM balances in Monterey, but had differing ideas about what modifications were necessary. As required by the Commission’s Rules of Practice and Procedure, the Parties properly noticed and held a settlement meeting on May 11, 2016.<sup>6</sup> The Parties engaged in extensive settlement negotiations. The Parties fully considered the facts and the law relevant to this case, and reached reasonable compromises on the issues.

Second, the Parties are aware of no statutory provision or prior Commission decision that would be contravened or compromised by the proposed Settlement. The issues resolved in the Settlement are within the scope of the proceeding.

## V. CONCLUSION

Respectfully submitted,

Dated: June 17, 2016

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Dated: June 17, 2016

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<sup>6</sup> Pursuant to Rule 12.1(b) of the Rules of Practice and Procedure, on May 4, 2015, California American Water provided notice of the settlement conference, which was held by conference call at approximately 4:30 p.m. on Wednesday, May 11, 2016 and attended by many of the parties to the proceeding.